

Remarks / Discussion of Issues

In the final Office Action dated December 22, 2010, it is noted that claims 1 and 3-19 are pending and stand rejected. Claims 1, 6, and 11 are independent claims. Claim 2 was previously canceled.

The independent claims are amended herein to clarify certain aspects of the claimed invention. No new subject matter has been added.

Cited Art

Cited art in this response includes US Patent 7,321,762 to Hoeben ("Hoeben"), US Patent 4,704,716 to Bowers et al. ("Bowers"), IEEE Standard for Information Technology 802.11 (1999) "Part 11:Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) specifications: High-speed Physical Layer in the 5GHz Band" ("802.11-1999"), US Patent 7,272,1566 to Shoemake et al. ("Shoemake"), US Patent 7,415,046 to Beckman et al. ("Beckman"), US Patent 7,289,529 to Sherman ("Sherman"), and US Patent Publication 2005/0111402 to Sawada et al. ("Sawada").

Rejections under 35 U.S.C. §103

Claims 1, 3-10, 17, and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hoeben in view of Bowers and 802.11-1999. Claims 11-14 stand rejected under 35 U.S.C. §103(a) over Hoeben in view of Bowers, 802.11-1999, and Sherman. Claim 16 over Hoeben, Bowers, 802.11-1999, and Beckman. Claim 19 over Hoeben, Bowers, 802.11-1999, and Shoemake. Claim 15 over Hoeben, Bowers, 802.11-1999, Sherman and Sawada.

Applicants respectfully traverse these rejections.

Applicants' claim 1, as amended, recites in part,

recognizing an idle state and a back-off state;
determining whether the idle state or the back-off
state is underway on each channel of the at least two
channels that are an object of channel grouping.
Emphasis added.

On pages 2-3, the Office Action explains that the claims are interpreted in the broadest reasonable meaning of the words in their ordinary usage, which apparently forms the basis of the rejection. Applicants do not concede to the Office's reasoning and analysis, however, in an effort to expedite prosecution of this case, Applicants amend the independent claims to clarify certain aspects of the claimed invention.

The Office Action on page 5 admits that Hoeben does not disclose the features of determining of the two channels which are in idle or back-off, and relies on Bowers at column 8, line 61-column 9, line 29 for allegedly curing the deficiencies of Hoeben with respect to claim 1. Applicants respectfully traverse this argument.

Bowers appears to relate to a method for establishing a wideband communication facility through a communication network having narrow bandwidth channels. However, Bowers does not recognize an idle state and a back-off state, as required in claim 1. As such, Bowers does not teach or suggest the features of recognizing an idle state and a back-off state; determining whether the idle state or the back-off state is underway on each channel of the at least two channels that are an object of channel grouping, as set forth in claim 1.

The cited reference 802.11-1999 was added to cure the alleged deficiencies of Hoeben and Bowers, more specifically, for allegedly suggesting preambles and headers. However, 802.11-1999 does not suggest the features of claim 1 lacking in the combination of Hoeben and Bowers, as discussed above. Furthermore, the Office Action does not rely on 802.11-1999 for suggesting the features of determining whether the idle state or the back-off state is underway on each channel of the at least two channels that are an object of channel grouping. As such, the combination of Hoeben, Bowers, and 802.11-1999 does not teach or suggest all the limitations of claim 1. Therefore, Applicants respectfully request the withdrawal of the rejection of claim 1 under 35 USC 103(a).

Claims 3-5, 17, and 18 depend from claim 1 and include all the features of claim 1, plus additional distinguishing features. Accordingly, for at least the above reasons, claims 1, 3-5, 17, and 18 are patentable over the combination of Hoeben, Bowers, and 802.11-1999.

Independent claim 6 is different from claim 1 and must be interpreted according to its specific recited features. For example, claim 6 includes the features of: "recognizing an idle state and a back-off state; determining whether the idle state or the back-off state is underway on a single one of the scanned channels."

Although claims 1 and 6 are different and must be interpreted on their own merit, Applicants apply the above arguments for claim 1 to independent claim 6. As such, Applicants respectfully submit that claim 6 is allowable over the combination of cited art and respectfully requests the withdrawal of the rejection under 35 U.S.C. 103(a). Claims 7-10 depend from claim 6 and include all the above discussed features of claim 6, plus additional distinguishing features. Accordingly, for at least the above reasons, claims 7-10 are likewise patentable over the combination of Hoeben, Bowers, and 802.11-1999.

Independent claim 11 is different from claims 1 and 6. For example, claim 11 includes the features of: "recognizing an idle state and a back-off state; determining whether the idle state or the back-off state is underway on each channel of the at least two channels to be called upon for transmission."

Although claim 11 must be interpreted on its own merits, Applicants apply the above arguments for claim 1 to independent claim 11. Sherman does not cure the deficiencies of the combination of Hoeben, Bowers, and 802.11-1999 as noted above with respect to claim 1. As such, Applicants respectfully submit that claim 11 is allowable over the combination of cited art and respectfully requests the withdrawal of the rejection of independent claim 11 under 35 U.S.C. 103(a).

Claims 12-14 depend from claim 11 and include all the above discussed features of claim 11, plus additional distinguishing features. Accordingly, for at least the above reasons, claims 12-14 are patentable over the combination of Hoeben, Bowers, 802.11-1999, and Sherman.

With respect to the remaining dependent claims, the Office Action cites additional references as noted above. However, each of dependent claims 15, 16, and 19 depends from an allowable independent base claim and inherits all of the features of the respective independent base claim.

The additional cited references do not cure the deficiencies as noted as applied to the respective independent base claim. Thus, each dependent claim is patentable for at least the same reasons discussed above with respect to its independent base claim, upon which it depends, with each dependent claim containing further distinguishing patentable features.

Conclusion

An earnest effort has been made to be fully responsive to the Examiner's correspondence and advance the prosecution of this case. In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance.

If there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

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973-401-7157